

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 890

AN ACT

To repeal section 211.447, RSMo, and to enact in lieu thereof two new sections relating to child abuse and neglect, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 211.447, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections 210.151
3 and 211.447, to read as follows:

4 210.151. 1. The children's division, a juvenile officer,
5 or a prosecuting or circuit attorney may petition the circuit
6 court for an order directing a parent, guardian, or other person
7 with care, custody, or control of a child who is the subject of
8 an investigation of child abuse or neglect to present the child
9 at a place and time designated by the court to a SAFE CARE
10 provider, as defined in section 334.950, for a sexual assault
11 forensic examination or a child physical abuse forensic
12 examination, or to a child assessment center, as described in
13 section 210.001, for an interview. During an interview at a
14 child assessment center, a video recording of any interview with
15 the child at the center shall be made and preserved and shall be
16 admissible in evidence in accordance with Missouri supreme court

1 rules and the provisions of chapters 490, 491, 492, 510, 545, and
2 595.

3 (1) The court shall enter an order under this section if
4 the court determines that there is probable cause to believe that
5 the child has been abused or neglected, the examination or
6 interview is reasonably necessary for the completion of an
7 investigation or for the collection of evidence, and doing so
8 would be in the best interests of the child.

9 (2) The petition and order may be made on an ex parte basis
10 when it is reasonable to believe that providing notice may place
11 the child at risk of further abuse or neglect, when it is
12 reasonable to believe that providing notice may cause the child
13 to be removed from the state of Missouri or the jurisdiction of
14 the court, or if it is reasonable to believe that evidence
15 relevant to the investigation will be unavailable if the order is
16 not entered.

17 2. Any person served with a petition and order under this
18 section shall not be required to file an answer, but may file an
19 answer or a motion for a protective order or other appropriate
20 relief. At the time the order is served, the parent, guardian,
21 or person with care, custody, or control of the child shall be
22 advised, both orally and in writing, of his or her right to file
23 an answer or motion with the court.

24 (1) The answer or motion shall be filed at or before the
25 time for production or disclosure set out in the order. The
26 answer or motion shall be in writing, but no particular form
27 shall be required. The clerk shall serve a copy of the answer or
28 motion on the director of the children's division or on the

1 agency that applied for the order.

2 (2) The court shall expedite a hearing on the motion and
3 shall issue its decision no later than one business day after the
4 date the motion is filed. The court may review the motion in
5 camera and stay implementation of the order once for up to three
6 days.

7 (3) Any information that may reveal the identity of a
8 hotline reporter shall not be disclosed to anyone in any
9 proceeding under this section unless otherwise allowed by law.

10 3. The petition for an order under this section shall be
11 filed in the juvenile or family court that has jurisdiction under
12 section 211.031 or in the circuit court of the county:

13 (1) Where the child resides;

14 (2) Where the child may be found;

15 (3) Where the parent or legal guardian of the child resides
16 or may be found;

17 (4) Where the alleged perpetrator of the child abuse or
18 neglect resides or may be found;

19 (5) Where the subject of the order may be located or found;

20 (6) In Cole County, if none of the other venue provisions
21 of this section apply.

22 The court shall expedite all proceedings under this section so as
23 to ensure the safety of the child, the preservation of relevant
24 evidence, the completion of child abuse and neglect
25 investigations within statutory timeframes, and the provision of
26 appropriate due process to the parties involved.

27 4. Any person served with an order under this section who
28 knowingly violates the order shall be guilty of a class A

1 misdemeanor.

2 5. The timeframes for the division to complete its
3 investigation and notify the alleged perpetrator of its decision
4 set forth in sections 210.145, 210.152, and 210.183 shall be
5 tolled from the date that the division files a petition for an
6 order until the order is complied with in full, the order is
7 withdrawn, or a court of competent jurisdiction quashes the
8 order.

9 211.447. 1. Any information that could justify the filing
10 of a petition to terminate parental rights may be referred to the
11 juvenile officer by any person. The juvenile officer shall make
12 a preliminary inquiry and if it appears that the information
13 could justify the filing of a petition, the juvenile officer may
14 take further action, including filing a petition. If it does not
15 appear to the juvenile officer that a petition should be filed,
16 such officer shall so notify the informant in writing within
17 thirty days of the referral. Such notification shall include the
18 reasons that the petition will not be filed.

19 2. Except as provided for in subsection 4 of this section,
20 a petition to terminate the parental rights of the child's parent
21 or parents shall be filed by the juvenile officer or the
22 division, or if such a petition has been filed by another party,
23 the juvenile officer or the division shall seek to be joined as a
24 party to the petition, when:

25 (1) Information available to the juvenile officer or the
26 division establishes that the child has been in foster care for
27 at least fifteen of the most recent twenty-two months; or

28 (2) A court of competent jurisdiction has determined the

1 child to be an abandoned infant. For purposes of this
2 subdivision, an "infant" means any child one year of age or under
3 at the time of filing of the petition. The court may find that
4 an infant has been abandoned if:

5 (a) The parent has left the child under circumstances that
6 the identity of the child was unknown and could not be
7 ascertained, despite diligent searching, and the parent has not
8 come forward to claim the child; or

9 (b) The parent has, without good cause, left the child
10 without any provision for parental support and without making
11 arrangements to visit or communicate with the child, although
12 able to do so; or

13 (c) The parent has voluntarily relinquished a child under
14 section 210.950; or

15 (3) A court of competent jurisdiction has determined that
16 the parent has:

17 (a) Committed murder of another child of the parent; or

18 (b) Committed voluntary manslaughter of another child of
19 the parent; or

20 (c) Aided or abetted, attempted, conspired or solicited to
21 commit such a murder or voluntary manslaughter; or

22 (d) Committed a felony assault that resulted in serious
23 bodily injury to the child or to another child of the parent; or

24 (4) The parent has been found guilty of or pled guilty to a
25 felony violation of chapters 566 or 573 when the child or any
26 child in the family was a victim, or a violation of sections
27 568.020 or 568.065 when the child or any child in the family was
28 a victim. As used in this subdivision, a "child" means any

1 person who was under eighteen years of age at the time of the
2 crime and who resided with such parent or was related within the
3 third degree of consanguinity or affinity to such parent.

4 3. A termination of parental rights petition shall be filed
5 by the juvenile officer or the division, or if such a petition
6 has been filed by another party, the juvenile officer or the
7 division shall seek to be joined as a party to the petition,
8 within sixty days of the judicial determinations required in
9 subsection 2 of this section, except as provided in subsection 4
10 of this section. Failure to comply with this requirement shall
11 not deprive the court of jurisdiction to adjudicate a petition
12 for termination of parental rights which is filed outside of
13 sixty days.

14 4. If grounds exist for termination of parental rights
15 pursuant to subsection 2 of this section, the juvenile officer or
16 the division may, but is not required to, file a petition to
17 terminate the parental rights of the child's parent or parents
18 if:

19 (1) The child is being cared for by a relative; or

20 (2) There exists a compelling reason for determining that
21 filing such a petition would not be in the best interest of the
22 child, as documented in the permanency plan which shall be made
23 available for court review; or

24 (3) The family of the child has not been provided such
25 services as provided for in section 211.183.

26 5. The juvenile officer or the division may file a petition
27 to terminate the parental rights of the child's parent when it
28 appears that one or more of the following grounds for termination

1 exist:

2 (1) The child has been abandoned. For purposes of this
3 subdivision a "child" means any child over one year of age at the
4 time of filing of the petition. The court shall find that the
5 child has been abandoned if, for a period of six months or
6 longer:

7 (a) The parent has left the child under such circumstances
8 that the identity of the child was unknown and could not be
9 ascertained, despite diligent searching, and the parent has not
10 come forward to claim the child; or

11 (b) The parent has, without good cause, left the child
12 without any provision for parental support and without making
13 arrangements to visit or communicate with the child, although
14 able to do so;

15 (2) The child has been abused or neglected. In determining
16 whether to terminate parental rights pursuant to this
17 subdivision, the court shall consider and make findings on the
18 following conditions or acts of the parent:

19 (a) A mental condition which is shown by competent evidence
20 either to be permanent or such that there is no reasonable
21 likelihood that the condition can be reversed and which renders
22 the parent unable to knowingly provide the child the necessary
23 care, custody and control;

24 (b) Chemical dependency which prevents the parent from
25 consistently providing the necessary care, custody and control of
26 the child and which cannot be treated so as to enable the parent
27 to consistently provide such care, custody and control;

28 (c) A severe act or recurrent acts of physical, emotional

1 or sexual abuse toward the child or any child in the family by
2 the parent, including an act of incest, or by another under
3 circumstances that indicate that the parent knew or should have
4 known that such acts were being committed toward the child or any
5 child in the family; or

6 (d) Repeated or continuous failure by the parent, although
7 physically or financially able, to provide the child with
8 adequate food, clothing, shelter, or education as defined by law,
9 or other care and control necessary for the child's physical,
10 mental, or emotional health and development.

11
12 Nothing in this subdivision shall be construed to permit
13 discrimination on the basis of disability or disease;

14 (3) The child has been under the jurisdiction of the
15 juvenile court for a period of one year, and the court finds that
16 the conditions which led to the assumption of jurisdiction still
17 persist, or conditions of a potentially harmful nature continue
18 to exist, that there is little likelihood that those conditions
19 will be remedied at an early date so that the child can be
20 returned to the parent in the near future, or the continuation of
21 the parent-child relationship greatly diminishes the child's
22 prospects for early integration into a stable and permanent home.
23 In determining whether to terminate parental rights under this
24 subdivision, the court shall consider and make findings on the
25 following:

26 (a) The terms of a social service plan entered into by the
27 parent and the division and the extent to which the parties have
28 made progress in complying with those terms;

1 (b) The success or failure of the efforts of the juvenile
2 officer, the division or other agency to aid the parent on a
3 continuing basis in adjusting his circumstances or conduct to
4 provide a proper home for the child;

5 (c) A mental condition which is shown by competent evidence
6 either to be permanent or such that there is no reasonable
7 likelihood that the condition can be reversed and which renders
8 the parent unable to knowingly provide the child the necessary
9 care, custody and control;

10 (d) Chemical dependency which prevents the parent from
11 consistently providing the necessary care, custody and control
12 over the child and which cannot be treated so as to enable the
13 parent to consistently provide such care, custody and control; or

14 (4) [The parent has been found guilty or pled guilty to a
15 felony violation of chapter 566 when the child or any child in
16 the family was a victim, or a violation of section 568.020 when
17 the child or any child in the family was a victim. As used in
18 this subdivision, a "child" means any person who was under
19 eighteen years of age at the time of the crime and who resided
20 with such parent or was related within the third degree of
21 consanguinity or affinity to such parent; or

22 (5) The child was conceived and born as a result of an act
23 of forcible rape or rape in the first degree. When the
24 biological father has pled guilty to, or is convicted of, the
25 forcible rape or rape in the first degree of the birth mother,
26 such a plea or conviction shall be conclusive evidence supporting
27 the termination of the biological father's parental rights; or

28 [(6)] (5) (a) The parent is unfit to be a party to the

1 parent and child relationship because of a consistent pattern of
2 committing a specific abuse including, but not limited to,
3 specific conditions directly relating to the parent and child
4 relationship which are determined by the court to be of a
5 duration or nature that renders the parent unable for the
6 reasonably foreseeable future to care appropriately for the
7 ongoing physical, mental, or emotional needs of the child.

8 (b) It is presumed that a parent is unfit to be a party to
9 the parent and child relationship upon a showing that:

10 a. Within a three-year period immediately prior to the
11 termination adjudication, the parent's parental rights to one or
12 more other children were involuntarily terminated pursuant to
13 subsection 2 or 4 of this section or subdivision (1), (2), or
14 (3) [, or (4)] of this subsection or similar laws of other states;

15 b. If the parent is the birth mother and within eight hours
16 after the child's birth, the child's birth mother tested positive
17 and over .08 blood alcohol content pursuant to testing under
18 section 577.020 for alcohol, or tested positive for cocaine,
19 heroin, methamphetamine, a controlled substance as defined in
20 section 195.010, or a prescription drug as defined in section
21 196.973, excepting those controlled substances or prescription
22 drugs present in the mother's body as a result of medical
23 treatment administered to the mother, and the birth mother is the
24 biological mother of at least one other child who was adjudicated
25 an abused or neglected minor by the mother or the mother has
26 previously failed to complete recommended treatment services by
27 the children's division through a family-centered services case;

28 c. If the parent is the birth mother and at the time of the

1 child's birth or within eight hours after a child's birth the
2 child tested positive for alcohol, cocaine, heroin,
3 methamphetamine, a controlled substance as defined in section
4 195.010, or a prescription drug as defined in section 196.973,
5 excepting those controlled substances or prescription drugs
6 present in the mother's body as a result of medical treatment
7 administered to the mother, and the birth mother is the
8 biological mother of at least one other child who was adjudicated
9 an abused or neglected minor by the mother or the mother has
10 previously failed to complete recommended treatment services by
11 the children's division through a family-centered services case;
12 or

13 d. Within a three-year period immediately prior to the
14 termination adjudication, the parent has pled guilty to or has
15 been convicted of a felony involving the possession,
16 distribution, or manufacture of cocaine, heroin, or
17 methamphetamine, and the parent is the biological parent of at
18 least one other child who was adjudicated an abused or neglected
19 minor by such parent or such parent has previously failed to
20 complete recommended treatment services by the children's
21 division through a family-centered services case.

22 6. The juvenile court may terminate the rights of a parent
23 to a child upon a petition filed by the juvenile officer or the
24 division, or in adoption cases, by a prospective parent, if the
25 court finds that the termination is in the best interest of the
26 child and when it appears by clear, cogent and convincing
27 evidence that grounds exist for termination pursuant to
28 subsection 2, 4 or 5 of this section.

1 7. When considering whether to terminate the parent-child
2 relationship pursuant to subsection 2 or 4 of this section or
3 subdivision (1), (2), or (3) [or (4)] of subsection 5 of this
4 section, the court shall evaluate and make findings on the
5 following factors, when appropriate and applicable to the case:

6 (1) The emotional ties to the birth parent;

7 (2) The extent to which the parent has maintained regular
8 visitation or other contact with the child;

9 (3) The extent of payment by the parent for the cost of
10 care and maintenance of the child when financially able to do so
11 including the time that the child is in the custody of the
12 division or other child-placing agency;

13 (4) Whether additional services would be likely to bring
14 about lasting parental adjustment enabling a return of the child
15 to the parent within an ascertainable period of time;

16 (5) The parent's disinterest in or lack of commitment to
17 the child;

18 (6) The conviction of the parent of a felony offense that
19 the court finds is of such a nature that the child will be
20 deprived of a stable home for a period of years; provided,
21 however, that incarceration in and of itself shall not be grounds
22 for termination of parental rights;

23 (7) Deliberate acts of the parent or acts of another of
24 which the parent knew or should have known that subjects the
25 child to a substantial risk of physical or mental harm.

26 8. The court may attach little or no weight to infrequent
27 visitations, communications, or contributions. It is irrelevant
28 in a termination proceeding that the maintenance of the

1 parent-child relationship may serve as an inducement for the
2 parent's rehabilitation.

3 9. In actions for adoption pursuant to chapter 453, the
4 court may hear and determine the issues raised in a petition for
5 adoption containing a prayer for termination of parental rights
6 filed with the same effect as a petition permitted pursuant to
7 subsection 2, 4, or 5 of this section.

8 10. The disability or disease of a parent shall not
9 constitute a basis for a determination that a child is a child in
10 need of care, for the removal of custody of a child from the
11 parent, or for the termination of parental rights without a
12 specific showing that there is a causal relation between the
13 disability or disease and harm to the child.